

110TH CONGRESS
2D SESSION

S. 3411

To authorize the sale of certain National Forest System lands in the Superior National Forest in Minnesota.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Ms. KLOBUCHAR (for herself and Mr. COLEMAN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To authorize the sale of certain National Forest System lands in the Superior National Forest in Minnesota.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Superior National For-
5 est Land Adjustment Act of 2008”.

6 **SEC. 2. FINDINGS AND DEFINITIONS.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) Fragmentation of property rights on certain
9 lands described herein within and adjacent to the
10 Superior National Forest in Minnesota hampers the

1 ability of the Forest Service to manage associated
2 forested areas as well as the ability of private min-
3 eral owners to utilize their mineral rights.

4 (2) The United States primarily owns the sur-
5 face estate in the lands described in section 3, sub-
6 ject to reserved and outstanding mineral rights, with
7 such lands located within a well-established mining
8 district with a large open pit mine lying directly to
9 the north and a mine railroad lying directly to the
10 south.

11 (3) The public interest in selling the federally
12 owned property estate interests in lands described in
13 section 3 under the terms and conditions of this Act
14 would appear to outweigh the interest served by
15 maintaining such lands under Federal ownership
16 subject to a final determination under this Act.

17 (4) The sale of some Federal surface and sub-
18 surface rights in land under this Act will facilitate
19 mining in the areas described in section 3, and
20 thereby improve the local and national economy by
21 providing needed mineral resources, enhancing the
22 property tax base, and promoting employment op-
23 portunities through expanded job creation and will
24 allow for the acquisition of desirable public holdings

1 that are located within or adjacent to Forest Service
2 land by the Forest Service.

3 (5) Minnesota and the Army Corps of Engi-
4 neers, in cooperation with the Forest Service, are
5 preparing an environmental impact statement for
6 the proposed mining operations by PolyMet Mining,
7 Inc., on and adjacent to the lands authorized for
8 conveyance by this Act, more fully described in the
9 notice of intent of the Department of Defense (70
10 Fed. Reg. 38122 (July 1, 2005)) and a draft envi-
11 ronmental impact statement is expected to be re-
12 leased for public review and comment in the near fu-
13 ture.

14 (6) Proceeds from the sale of lands authorized
15 by this Act shall be used by the Forest Service to
16 purchase desirable private inholdings within and ad-
17 jacent to the Superior National Forest consistent
18 with the land and resource management plan for the
19 Superior National Forest.

20 (b) DEFINITIONS.—In this Act:

21 (1) The term “lands” includes interests in
22 lands.

23 (2) The term “Secretary” means the Secretary
24 of Agriculture.

1 (3) The term “surface mining” means the exca-
 2 vation of lands for the purposes of obtaining min-
 3 erals, including excavation by such methods as con-
 4 tour, strip, auger, open pit, and area mining.

5 **SEC. 3. LAND CONVEYANCE AUTHORITY, SUPERIOR NA-**
 6 **TIONAL FOREST, MINNESOTA.**

7 (a) CONVEYANCE AUTHORITY.—

8 (1) After considering the public interest factors
 9 described in paragraph (2), the Secretary of Agri-
 10 culture may sell in accordance with this Act any or
 11 all right, title, and interest of the United States in
 12 and to the lands within the Superior National Forest
 13 in Minnesota described in subsection (b).

14 (2) The sale authorized by this Act may pro-
 15 ceed if, based on the environmental documentation
 16 provided in accordance with section 5(b), or other
 17 information as the Secretary may choose to utilize,
 18 the Secretary determines that a sale will—

19 (A) result in better and more efficient
 20 management and development of Federal lands
 21 and resources taking into consideration the
 22 property interests and reservations for mining
 23 uses and surrounding use of the lands which
 24 are the subject of this Act;

1 (B) help consolidate the ownership of lands
 2 or interests in such lands, including mineral
 3 rights and surface ownership, thereby pro-
 4 moting economic development;

5 (C) result in receipt to the public of con-
 6 sideration equal to appraised market value as
 7 defined herein; and

8 (D) allow with proceeds from any sale the
 9 purchase of replacement lands which result in a
 10 net benefit to the multiple use resources of the
 11 Superior National Forest.

12 (3) This subsection prescribes the sole public
 13 interest determination required for any sale.

14 (b) LANDS AUTHORIZED FOR CONVEYANCE.—

15 (1) LANDS DESCRIBED.—The federally owned
 16 lands subject to sale under this Act are certain lands
 17 located in St. Louis County, Minnesota, comprising
 18 approximately 6,700 acres, more fully described as
 19 follows:

20 (A) Township 59 North, Range 13 West,
 21 4th Principal Meridian:

22 (i) Sections 1 through 9, inclusive.

23 (ii) Sections 10, 11, 17, and 18, those
 24 portions lying north of and subject to the
 25 right-of-way held by the Erie Railroad.

1 (iii) The N¹/₂ of section 12.

2 (B) Township 59 North, Range 12 West,
3 4th Principal Meridian:

4 (i) Section 6: Lots 3, 4, and 9, inclu-
5 sive.

6 (ii) Section 7: Lots 3 and 4, inclusive.

7 (C) Township 60 North, Range 13 West,
8 4th Principal Meridian:

9 (i) The S¹/₂SE¹/₄ of section 33.

10 (ii) The S¹/₂S¹/₂ of section 34.

11 (iii) The S¹/₂S¹/₂ of section 35.

12 (2) MAP.—The lands described in paragraph
13 (1) are generally depicted on a Forest Service map
14 dated October 4, 2007, and entitled “PolyMet (Pro-
15 ponent) Case #4544”, which shall be on file and
16 available for public inspection in the office of the
17 Forest Supervisor, Superior National Forest, until
18 such time as the lands are conveyed.

19 (3) MODIFICATION OF BOUNDARIES.—The Sec-
20 retary may modify the boundaries of the lands de-
21 scribed in paragraph (1) based on factors such as
22 buffers and other land management considerations.

23 (c) FORM OF CONVEYANCE.—The lands sold under
24 this Act shall be conveyed by quitclaim deed executed by
25 the Forest Service, Eastern Region, Director of Air, Soil,

1 Water, Lands, and Minerals. The Secretary may reserve
2 such rights-of-way or other rights or interests in the lands
3 as the Secretary considers necessary for future public land
4 management purposes or is otherwise in the public inter-
5 est.

6 (d) VALUATION.—Any appraisal of the lands to be
7 sold under this Act shall conform to the Uniform Ap-
8 praisal Standards for Federal Land Acquisitions, and the
9 appraisal shall be subject to the approval of the Secretary.
10 For purposes of appraisal, it shall be assumed that the
11 lands authorized for conveyance under this Act are subject
12 to the right of the United States, as surface owner to allow
13 or deny all forms of surface mining.

14 (e) CONSIDERATION.—Consideration for a sale of
15 lands under this Act shall be in an amount not less than
16 the appraised market value as determined in accordance
17 with subsection (d).

18 (f) METHOD OF SALE.—The Secretary may sell lands
19 described in subsection (b) at public or private sale, in-
20 cluding competitive sale by auction, bid, or otherwise, in
21 accordance with such terms, conditions, and procedures as
22 the Secretary determines are in the best interests of the
23 United States, subject to the following:

24 (1) The Secretary shall first offer the sale of
25 such lands for consideration at the appraised market

1 value to Poly Met Mining, Inc., a Minnesota cor-
2 poration, which shall have 90 days from the date of
3 the offer during which to contract for the purchase
4 of such lands.

5 (2) During the 90-day period referred to in
6 paragraph (1), the Secretary shall not offer to sell
7 such lands to any party other than Poly Met Mining,
8 Inc.

9 (3) In the offer under paragraph (1), the Sec-
10 retary shall require Poly Met Mining, Inc., to cover
11 the costs of survey, appraisal, and other expendi-
12 tures directly associated with the proposed sale.

13 (4) The Secretary may reject any counteroffer
14 made by Poly Met Mining, Inc., in response to the
15 offer of the Secretary under paragraph (1) if the
16 Secretary determines that the counteroffer is less
17 than fair market value or is not in the public inter-
18 est.

19 (g) BROKERS.—The Secretary may utilize brokers or
20 other third parties in the disposition of the lands author-
21 ized by this Act and, from the proceeds of a sale, may
22 pay reasonable commissions or fees.

23 **SEC. 4. TREATMENT OF PROCEEDS.**

24 (a) DEPOSIT.—The Secretary shall deposit the pro-
25 ceeds of a sale authorized by this Act in the fund estab-

lished under Public Law 90–171 (commonly known as the
“Sisk Act”) (16 U.S.C. 484a).

(b) AVAILABILITY.—Monies deposited under subsection (a) shall be available to the Secretary until expended, without further appropriation, only for the acquisition of lands within and adjacent to the Superior National Forest. Monies deposited into the fund described in subsection (a) shall not be subject to transfer or reprogramming for wildland fire management or any other emergency purpose.

(c) PRIORITY LAND ACQUISITIONS.—In utilizing funds derived from any sale of lands or interests authorized by this Act, in acquiring lands the Secretary shall give priority to—

(1) privately owned inholdings within the Boundary Waters Canoe Area Wilderness;

(2) lands having important recreational, scenic, or natural values; or

(3) eliminating nonconforming uses of land within the Superior National Forest when such uses are or may be reasonably expected to have detrimental impact on the area’s recreational, scenic, or natural values.

1 **SEC. 5. MISCELLANEOUS PROVISIONS.**

2 (a) WETLANDS OFFSET.—For purposes of compli-
3 ance with Executive Order 11990 (42 Fed. Reg. 26961
4 (May 24, 1977)) and Executive Order 11988 (42 Fed.
5 Reg. 26951 (May 24, 1977)), the Secretary shall, within
6 7 years after the date of final conveyance of lands or inter-
7 ests under this Act, ensure that the total functional value
8 of the wetlands acquired pursuant to section 4 is equal
9 to or exceeds the functional value of the wetlands sold
10 under this Act.

11 (b) ENVIRONMENTAL ANALYSIS REQUIREMENT.—

12 (1) For conveyances authorized by this Act, the
13 Secretary shall assume that the future use of the
14 lands so conveyed will be for surface mining.

15 (2) For conveyances authorized by this Act—

16 (A) the Secretary shall be a cooperating
17 agency on the environmental impact statement
18 described in section 2(a)(5); and

19 (B) the final environmental impact state-
20 ment described in section 2(a)(5) shall disclose
21 and document the material environmental ef-
22 fects, if any, from the anticipated sale of the
23 land and property interests under this Act, to
24 the extent required under the National Environ-
25 mental Policy Act of 1969 (42 U.S.C. 4321 et
26 seq.) and regulations promulgated thereunder.

1 (3) In complying with the requirements of this
2 subsection, the Corps of Engineers, the State of
3 Minnesota, and the Forest Service shall not be re-
4 quired to repeat notice or comment procedures, in-
5 cluding scoping, already accomplished as of the ef-
6 fective date of this Act with respect to the prepara-
7 tion of the environmental impact statement de-
8 scribed in section 2(a)(5), or republish a revised
9 draft environmental impact statement to the extent
10 one is published prior to the effective date of this
11 Act.

12 (4) For purposes of implementing this Act, the
13 Forest Service shall only be required to utilize the
14 final environmental impact statement described in
15 section 2(a)(5), including the information required
16 under paragraph (2) and shall not be required to do
17 additional analysis or data gathering.

18 (5) The closing of any land sale authorized
19 under this Act shall not occur before the date on
20 which notice of the final environmental impact state-
21 ment described in section 2(a)(5) is published in the
22 Federal Register.

23 (c) DEADLINE FOR SALE OF LANDS.—To the extent
24 practicable, the sale of lands authorized by this Act shall

- 1 be completed within 180 days after the date described in
- 2 subsection (b)(5).

